

Service Date: October 17, 2006

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER OF NORTHWESTERN)	UTILITY DIVISION
ENERGY, Application for Adjustment to)	
Natural Gas Universal System)	DOCKET NO. D2004.7.99
Benefits Charge)	ORDER NO. 6679b

IN THE MATTER OF NORTHWESTERN)	UTILITY DIVISION
ENERGY, Application for Adjustment to)	
Natural Gas Universal System)	DOCKET NO. D2004.12.192
Benefits Charge)	ORDER NO. 6679b

IN THE MATTER OF NORTHWESTERN)	UTILITY DIVISION
ENERGY, Public Service Commission)	
Investigation and Direction on Electric)	DOCKET NO. D2005.6.106
Universal System Benefits)	ORDER NO. 6679b

SECOND INTERIM ORDER

APPEARANCES

FOR THE APPLICANT:

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FOR THE INTERVENORS:

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DOCKET NO. D2004.12.192, ORDER NO. 6679b
DOCKET NO. D2005.6.106, ORDER NO. 6679b

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AARP Montana

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Before:

Greg Jergeson, Chairman
Brad Molnar, Vice Chairman
Doug Mood, Commissioner
Robert H. Raney, Commissioner
Thomas J. Schneider, Commissioner

Commission Staff:

Kim Moran, Utility Division
Will Rosquist, Utility Division
David Burchett, Utility Division
Kate Whitney, Utility Division
Martin Jacobson, Staff Attorney
Al Brogan, Staff Attorney

INTRODUCTION

1. In this order the Montana Public Service Commission (PSC or Commission) issues its second interim decision on the near-term low-income assistance issues raised in this consolidated docket concerning the electric and natural gas universal system benefits (USB) programs of NorthWestern Energy (NWE).

2. On July 2, 2004, NWE filed an application for approval of an increase in NWE's natural

gas USB charge (PSC Docket No. D2004.7.99). The increase would affect an average residential customer monthly bill by approximately \$0.33. The increase was approved on an interim basis at a work session on July 15, 2004.

3. On December 1, 2004, NWE filed before the PSC an application for approval of a decrease in NWE's natural gas USB charge (PSC Docket No. D2004.12.192). The decrease would affect an average residential customer monthly bill by approximately \$0.11.

4. On January 12, 2005, the PSC issued a *Notice of Application and Intervention Deadline* regarding the above NWE filings and intervenor Energy Share of Montana's (Energy Share) proposal that NWE donate \$300,000 of NWE gas USB funds per year to Energy Share. In a *Notice of Commission Action on Interim Request and Disposition of Natural Gas Universal System Benefits Funds* issued February 17, 2005, the PSC determined that increased natural gas prices created an emergency regarding distribution of NWE's gas USB funds. Therefore, the PSC denied NWE's request for an interim gas USB charge decrease to reflect what NWE had calculated as a potential to accumulate approximately \$300,000 as an overcollection in NWE's gas USB funds and a resulting decrease in an average residential customer monthly bill by approximately \$0.11. Instead the PSC determined the most beneficial approach was a one-time emergency distribution to Energy Share of a part of the accumulated or accumulating NWE overcollection. The PSC directed that NWE distribute, subject to the availability in NWE's predicted gas USB fund overcollection, \$150,000 to Energy Share on a one-time, emergency basis. The PSC further directed that NWE retain the balance of the NWE gas USB fund overcollection, which should be approximately \$150,000, for disposition in further proceedings on the above dockets.

5. The Commission initiated Docket D2005.6.106 to conduct an investigation and make determinations concerning NWE's electric USB programs. See *Notice of Investigation and Intervention Deadline* issued July 28, 2005.

6. The Commission consolidated the three dockets, D2004.7.99, D2004.12.192, and

D2005.6.106, on July 28, 2005, and indicated the issues in the consolidated dockets would primarily include NWE's allocation (*i.e.*, use, application, distribution) of gas and electric USB funds.

7. AARP Montana (AARP), Human Resources Council District XI (HRC), Montana Consumer Counsel (MCC), Rocky Mountain Development Council (RMDC), Montana Department of Public Health and Human Services (DPHHS), Large Customer Group, Energy Share of Montana, Montana Association of Human Resource Development Council Directors, and Renewable Northwest Project/Natural Resources Defense Council (RNP/NRDC) requested and were granted intervention in this proceeding.

8. A hearing was held October 4-5, 2005, in Helena. Parties' witnesses provided live rebuttal testimony at the hearing. Parties' attorneys made closing arguments at the end of the hearing.

9. On November 2, 2005, the Commission issued interim order 6679a. The Commission ordered NWE to increase the electric low-income discount from 15% to 25% and the natural gas low-income discount from 15% to 30% during the period November 1, 2005, through April 30, 2006. On May 1, 2006, the electric rate discount reverted to 15% and the natural gas discount terminated for the period May through October. According to the order, if the Commission has not issued a final order by November 1, 2006, NWE must reinstate both the electric and natural gas discounts at the respective 25% and 30% levels for the 2006-07 heating season, starting on that date. The Commission also required NWE to file a report in March 2006 on the sustainability of the interim discounts established in the order.

10. On March 15, 2006, NWE filed a status report, as required in Order 6679a, on the sustainability of the interim discounts established by the Commission. NWE indicated that actual expenses for the electric and natural gas low-income discounts for the period November 2005 through February 2006 were \$1,781,683. NWE projected 2006 calendar year expenses for the electric and natural gas low-income discounts would be roughly \$3.7 million, based on an

assumed electricity supply cost of about \$49.92/mwh and a natural gas price of about \$9.77/dkt. NWE indicated that expenses related to the discounts were slightly less than business plan estimates. NWE also indicated that although participation in the discount program grew approximately 5% in the 2003-04 and 2004-05 heating seasons, participant growth in the 2005-06 heating season was between 1% and 2%. NWE reported that the discounts would be sustainable as long as supply prices remained near business plan projections and customer participation did not grow beyond business plan predictions.

11. On April 5, 2006, the Commission issued a notice of opportunity for post interim procedures. The notice explained that further proceedings may be required prior to PSC issuance of a final order in this docket. The Commission sought comments from NWE, intervenors (parties) and any other person directly affected by the interim order and the subject matter in general regarding need for further proceedings, issues that remain to be resolved or should be resolved on a permanent basis, and suggestions on how those issues should be resolved. The Commission invited requests for a hearing. Comments were due May 9, 2006.

12. On May 9, 2006, the Commission received written comments from NWE, HRC, Energy Share, and RNP/NRDC.

13. At a noticed and open work session on August 15, 2006, the Commission discussed the status of this proceeding. The Commission decided to issue a final order making permanent the allocations and decisions in Interim Order 6679a, with a description of instances in other recent orders where the Commission approved expenditures on energy efficiency and renewable resources in the context of NWE's default supply portfolio.

14. At a noticed and open work session on September 26, 2006, the Commission reconsidered its decision from the August 15, 2006 work session due to concerns about its authority to direct the use of electric USB funds for gas low-income bill assistance. The Commission decided to extend the interim electric and gas USB allocations in Order 6679a through calendar year 2007 to allow the 2007 Montana Legislature an opportunity to clarify the

natural gas USB statutes.

COMMENTS ON POST INTERIM PROCEDURES

NWE

15. In its comments on post interim procedures, NWE said it seeks to implement a robust set of USB programs that serve a broad cross-section of customers in a balanced and equitable manner. In NWE's view, USB programs should include a broad range of public purposes, serve each customer class and reflect the input of a wide range of interested parties. NWE said that although the Commission authorized use of surplus electric USB funds to cover the deficiency in gas USB revenues associated with the increased low-income discount, the Commission should not consider that a permanent solution. NWE speculated that the disparity between revenue collected at the current gas USB charge and gas USB expenses will grow in the future. Continuing the Commission's interim decision would negatively affect electric USB programs by adding variability associated with the gas low-income discount to existing variability of the electric low-income discount. NWE recommended adjusting the gas USB rate to collect sufficient revenue to cover gas USB obligations.

Energy Share

16. Energy Share's comments on post interim procedures referred to NWE's assumptions presented in its March 15, 2006 report to the Commission. Those assumptions essentially stated that if energy supply prices remained at or near the energy supply prices used in NWE's planning and Energy Share customer participation did not increase substantially, then the increased USB allocations to Energy Share and the increased electric and natural gas USB low-income discounts approved by the Commission in Interim Order 6679a (November 2, 2005) would be sustainable. Energy Share stated that its increased USB funding level was sufficient to get them through the 2006 calendar year ending December, however, its local volunteer committees need to know how

much funding will be available for an entire winter heating season (November through March). Energy Share does not expect another mild winter, continuation of the Governor's December 2005 authorization of funds to supplement the LIEAP program, or NWE's challenge grant program to assist customers who are not eligible for LIEAP discounts. Energy Share requested that the Commission make permanent the increased USB allocation approved in Interim Order 6679a for 2006 and continue that increased USB allocation for the 2007 and 2008 calendar years. Energy Share also requested that any increase in USB revenues be directed to USB low-income weatherization programs for those years. Energy Share stated that the record in this docket is sufficient to support the extension (through the conclusion of the 2008 winter heating season) of the increased USB allocations to Energy Share and the increased electric and natural gas USB low-income discounts approved by the Commission in Interim Order 6679a.

RNP/NRDC

17. RNP/NRDC commented that the Commission's Interim Order 6679a radically altered the USB allocation formula without adequate analysis and explanation, as to the need and ramifications, for increasing the USB allocations to Energy Share and the electric and natural gas USB low-income discounts while significantly reducing the funding for USB renewable resource programs and essentially eliminating funding for USB market transformation programs.

RNP/NRDC believes that it is advisable and incumbent upon the Commission, as a matter of sound decision-making, to carefully examine and assess the effectiveness and sustainability of the above ordered allocation changes. In the event that the Commission determines the electric and natural gas USB low-income discounts are not sustainable, the Commission must conduct a hearing so as to determine how the increased electric and natural gas USB low-income discounts programs are to be funded.

District XI HRC

18. HRC commented that Interim Order 6679a provided an “emergency solution” that was inappropriate given that higher energy prices appear to be a “fact of life” that the Commission, other government agencies, businesses, and individual households have to build into their planning and policies. HRC emphasized that a long-term USB policy needs to be developed in which all of the public purposes envisioned by the law authorizing the USB charge are accommodated and adequately funded. HRC appreciated the fact that the Commission’s Interim Order 6679a significantly increased USB low-income weatherization program funding, however, HRC remains concerned about the sustainability of the increased USB low-income weatherization program funding in the face of funding demands associated with any increasing participation in the electric and natural gas USB low-income discount programs. In order for the Commission to avoid allowing its policies, by default, to become permanently “interim” and one-dimensional, HRC appeals for a longer-term policy objective that assures any interim energy bill assistance will be compatible with other important regulatory objectives and policies. Reducing or eliminating other efficiency and renewable energy resource USB programs simply serves to transform USB funding into another subsidization program that fosters household dependence rather than empowering households to become more self-reliant and self-sufficient. Uncontrolled and unchecked increases in the electric and natural gas USB low-income discount programs are detrimental to achieving more desirable long-term energy policy objectives and solutions.

COMMISSION DISCUSSION AND DECISIONS

19. The Commission finds extending Interim Order 6679a through 2007 is reasonable. Wholesale electricity and natural gas prices continue to exhibit substantial volatility. Retail electricity and natural gas service is still unaffordable for low-income customers. Although the Commission reduced funding for some public purposes to address affordability concerns, to a large extent these public purposes are still funded through NWE’s default supply rates. In Docket No. D2005.2.14 the Commission approved the primary terms of a long-term purchase between

NWE and the Judith Gap wind project for 135 MW of renewable energy. In Docket Nos. D2003.6.77 and D2004.6.90 the Commission supported NWE's plan to acquire about 100 MW of cost-effective demand-side resources and authorized NWE's recovery, on an interim basis, of related lost transmission and distribution revenues. Finally, in Interim Order 6679a, the Commission encouraged NWE to continue USB activities that are consistent with the objectives in the default supply procurement rules (ARM 38.5.8201 - 38.5.8226) within the default supply portfolio. The Commission stated that the cost of such activities is recoverable in default supply rates.

20. The statutory authority allowing the Commission to fund natural gas USB programs through electric USB charges is unclear. The dire circumstances facing low-income customers in the 2005-06 winter heating season, and which still exist to some degree, justify the Commission's interim decisions and an extension of those decisions through calendar year 2007. The 2007 Montana Legislature may clarify the Commission's authority. In any case, the Commission reiterates its commitment to use this proceeding to further investigate unresolved USB allocation issues.

CONCLUSIONS OF LAW

1. The PSC is the Montana administrative agency charged with regulating public utilities. § 69-1-102, MCA. NWE is a public utility in regard to NWE's provision of natural gas and electric services to customers in Montana. § 69-3-101, MCA (meaning of "public utility").

2. NWE, as well as other Montana energy utilities, is required to have USB programs. See, e.g., § 69-3-1408, MCA (natural gas utility USB program) and § 69-8-402, MCA (electric utility USB program). The PSC has authority to approve public utility USB programs. § 69-3-1408, MCA (natural gas USB) and § 69-8-402, MCA (electric USB).

INTERIM ORDER

1. NorthWestern Energy shall increase its electric low-income discount from 15% to 25% and increase its natural gas low-income discount from 15% to 30%. The increased discounts are to be applied to LIEAP customer bills from November 1, 2006, through April 30, 2007, at which time the electric discount will revert to the usual 15% level and the natural gas discount will terminate. If the Commission has not yet issued a final order in this proceeding by November 1, 2007, NWE will increase the electric discount from 15% to 25% and reinstate the 30% natural gas discount on that date.

2. NorthWestern Energy's electric and natural gas USB expense targets for other qualifying USB programs and categories shall approximate the allocations in Table 3 in Order No. 6679a, subject to actual revenue collections and low-income discount costs.

3. NorthWestern Energy shall continue to adhere to other applicable orders in Order No. 6679a including the use of surplus electric USB revenues resulting from the reallocations in Order No. 6679a to cover gas USB revenue deficiencies resulting from the increased gas discounts established by this order.

4. NorthWestern Energy must file tariffs in compliance with this order.

5. This order is effective for service rendered on and after November 1, 2006.

DONE IN OPEN SESSION at Helena, Montana on the 3rd day of October, 2006, by a vote of 4 to 1.

DOCKET NO. D2004.7.99, ORDER NO. 6679b
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BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

GREG JERGESON, Chairman

BRAD MOLNAR, Vice Chairman

DOUG MOOD, Commissioner

ROBERT H. RANEY, Commissioner

THOMAS J. SCHNEIDER, Commissioner
(voting to dissent)

ATTEST:

Connie Jones
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806